

1
2
3
4
5
6
7

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 Tadhg Canniffe,

11 Plaintiff,

12 v.

13 Ruth Johnson, et al.,

14 Defendants.

15 No. 2:22-cv-01470-KJM-CKD

ORDER

16 Defendants Ruth Johnson and Rebecca Gomez, who appear pro se, removed this unlawful
17 detainer action from the Superior Court of the County of Sacramento. *See* Not. Removal, ECF
18 No. 1. The court has reviewed the complaint and notice of removal and has determined on its
19 own motion that it lacks subject matter jurisdiction. This action is thus **remanded** to the state
20 court.

21 When a case “of which the district courts of the United States have original jurisdiction” is
22 initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a).
23 There are two primary bases for federal subject matter jurisdiction: federal question jurisdiction
24 under 28 U.S.C. § 1331, and diversity jurisdiction under 28 U.S.C. § 1332.

25 First, under § 1331, district courts have federal question jurisdiction over “all civil actions
26 arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Under
27 the longstanding well-pleaded complaint rule, a suit “arises under” federal law “only when the
28 plaintiff’s statement of his own cause of action shows that it is based upon [federal law].”

Louisville & Nashville R. Co. v. Mottley, 211 U.S. 149, 152 (1908). Federal question jurisdiction cannot rest upon an actual or anticipated defense or counterclaim. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009).

4 Second, under § 1332, district courts have diversity-of-citizenship jurisdiction where the
5 amount in controversy exceeds \$75,000 and the parties are completely diverse. 28 U.S.C. § 1332.
6 “Where it is not facially evident from the complaint that more than \$75,000 is in controversy, the
7 removing party must prove, by a preponderance of the evidence, that the amount in controversy
8 meets the jurisdictional threshold.” *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089,
9 1090 (9th Cir. 2003) (per curiam).

10 Here, plaintiff Tadhg Canniffe alleges defendants are living unlawfully in a residential
11 property plaintiff owns. *See* Compl. ¶¶ 2–9, ECF No. 1 at 6–8. Plaintiff asserts one state law
12 claim for unlawful detainer and no federal claims. *See generally id.* The parties are not diverse,
13 and no allegations in the complaint suggest the amount in controversy is greater than
14 \$75,000. *See id.* at 6 (stating that “amount demanded does not exceed \$10,000”). The court
15 therefore lacks subject matter jurisdiction.

Defendants argue that this court has jurisdiction over the matter under both § 1331 and under § 1441 “because Defendant’s Demurrer, a pleading depend [sic] on the determination of Defendant’s rights and Plaintiff’s duties under federal law.” Not. Removal at 2. However, there are no federal claims or laws at issue and even if defendants asserted a defense based on federal law, which they do not, a defendant cannot create a federal question by asserting such a defense.

22 A federal district court may remand a case on its own motion where a defendant has not
23 established federal jurisdiction. *See* 28 U.S.C. § 1447(c); *Enrich v. Touche Ross & Co.*, 846 F.2d
24 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921)).
25 This action is thus **remanded** to the Superior Court of the County of Sacramento.

26 | IT IS SO ORDERED.

27 | DATED: August 25, 2022.

CHIEF UNITED STATES DISTRICT JUDGE